

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

_____)	
Dynamic Network Systems, Inc.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 06-cv-37-M
)	
Timothy Wilde,)	
)	
Defendant)	
_____)	

**MOTION TO WITHDRAW PLAINTIFF’S INITIAL COMPLAINT FROM THE
PUBLIC RECORD OR, IN THE ALTERNATIVE, TO PLACE UNDER SEAL LEVEL II**

NOW COMES the Plaintiff Dynamic Network Services, Inc., by and through its attorneys, Sheehan Phinney Bass + Green, Professional Association, and respectfully moves the Court for an order withdrawing the Plaintiff’s initial Complaint from the Public Record or, in the alternative, for an Order for a Seal Level II to maintain the confidentiality of the initial Complaint or certain parts of it. In support of this Motion to Withdraw or Seal, the Plaintiff states as follows:

1. This Motion is filed in conjunction with the Plaintiff’s Motion to Amend under Federal Rule 15(a), in which the Plaintiff seeks to in effect replace its initial Complaint with its First Amended Complaint in order to preserve the confidentiality of certain information that may be the subject of a separate confidentiality stipulation with a third party.

2. The Plaintiff’s Amended Complaint simply excises the third sentence of Paragraph 18 of the initial Complaint; no other change has been made.

3. Accordingly, the Plaintiff requests that the Court grant this Motion to either Withdraw the initial Complaint from the public record or place the initial Complaint under a Level

II Seal in accordance with Local Rule 83.11. Plaintiff acknowledges that under L.R. 83.11(c) the material to be sealed must be submitted after or contemporaneously with the Motion to Seal.

However, because the possibly confidential information was erroneously included in the original Complaint and because no possible prejudice will result, Plaintiff requests under L.R. 1.3(b) that the Court excuse the failure to comply with the timing requirements of L.R. 83.11(c).

4. Counsel has not yet appeared for the Defendant, and this Motion simply seeks to preserve possible obligations of confidentiality, prior to the filing of any responsive pleading or other activity in the case. The Plaintiff believes, therefore, that Local Rule 7 as it relates to seeking opposing counsel's assent does not apply, and that no memorandum of law or citation to authority other than the Local Rule is required.

WHEREFORE, the Plaintiff respectfully requests that this Court:

A. Grant its Motion to Withdraw Initial Complaint or, in the Alternative, Place the initial Complaint under a Level II Seal; and

B. Grant such other and further relief as the Court deems necessary and just.

Respectfully submitted,

DYNAMIC NETWORK SERVICES, INC.

By Its Attorneys,

SHEEHAN PHINNEY BASS & GREEN,
PROFESSIONAL ASSOCIATION

Dated: March 15, 2006

By: /s/ Christopher Cole
Christopher Cole, NH Bar No. 8725
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the within Motion to Withdraw Plaintiff's Initial Complaint From the Public Record or, in the Alternative, to Place Under Seal Level II was this day mailed conventionally by U.S. regular mail to the Defendant Timothy Wilde at this last know address of Timothy Wilde, 1175 Lake Boulevard, No. 105, Davis, CA 95616.

Dated: March 15, 2006

By: /s/ Christopher Cole
Christopher Cole, NH Bar No. 8725